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11.20.02

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TOWNSEND and TOWNSEND and CREW LLP

By: Rosemarie L. Celli  
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PATENT  
Attorney Docket No.: 15270J-004761US  
Client Ref. No.: 209-US-CIP8BC1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

DALE B. SCHENK et al.

Application No.: 09/724,552

Filed: November 28, 2000

For: PREVENTION AND TREATMENT  
OF AMYLOIDOGENIC DISEASE

Examiner: Sharon L. Turner

Art Unit: 1647

RESPONSE TO  
RESTRICTION/ELECTION  
REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This paper is submitted in response to the Restriction Requirement mailed May 6, 2002. Applicant submits herewith a Petition for an Extension of time from June 6, 2002 to November 6, 2002.

In response to the restriction requirement, Applicant elects Group III, claims 47 and 67-68. In response to the election of species requirement, Applicant elects Group 1B, humanized antibodies; Group 2B, monoclonal antibodies; and, Group 3E, antibodies that bind to an epitope within residues 3-7 of the A $\beta$  peptide is moot.

The election of species requirement with regard to Group 3 is respectfully traversed on the basis that although the designated species may be patentably distinct they are not mutually exclusive. MPEP 806.04(f) specifies that "[c]laims to be restricted

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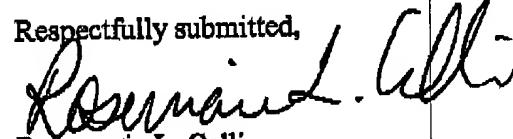
to different species must be mutually exclusive." The species recited by the office action are not mutually exclusive, for example, antibodies that bind to an epitope within residues 1-7 of the A $\beta$  peptide may include, and are not limited to, e.g.:

1. Antibodies that bind to an epitope within residues 1-6 of the A $\beta$  peptide;
2. Antibodies that bind to an epitope within residues 1-5 of the A $\beta$  peptide; and,
3. Antibodies that bind to an epitope within residues 1-4 of the A $\beta$  peptide.

Because the Group 3 election of species requirement requires election between non-mutually exclusive species, it is submitted that it should be withdrawn.

Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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